

REMARKS

Applicants have carefully reviewed this Application in light of the Office Action mailed December 19, 2008. Claims 10-21 are pending in this Application and Claims 10-21 stand rejected under 35 U.S.C. § 103(a). Claims 1-9 were previously canceled without prejudice or disclaimer. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 103

Claims 10-11 and 13-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,950,167 issued to Rhoda Yaker (“*Yaker*”).

Claim 12 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Yaker* as applied to Claim 10 above, and further in view of U.S. Patent 6,345,253 issued to Mahesh Viswanathan (“*Viswanathan*”).

Claims 20-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Yaker* as applied to Claim 17 above, and further in view of U.S. Patent 6,434,523 issued to Peter C. Monaco (“*Monaco*”).

Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int’l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

Applicants respectfully submit that the cited references, either alone or in combination, do not recite each and every element of the claimed subject matter, and thus cannot render obvious Claims 10-21. Applicants reiterate from their previous response that *Yaker*, the reference cited as rendering obvious Claim 10, fails to disclose “a file directory configured to store a *link* to each program and file of the plurality of programs and other files, wherein the names of the links form a first active partial vocabulary of the voice recognition apparatus” as recited in Claim 10. In particular, *Yaker* does not teach storing a *link* (e.g., Windows shortcut) to each program and file, wherein the link forms part of the vocabulary of the voice recognition apparatus.

In response to this argument, the Examiner asserts that “windows shortcuts and other user interface features are not the only interpretations of ‘link’” and “as long as the file can be reached by anything, then there is a ‘link.’” (Office Action, Page 2). The Examiner then states that because of the mere fact that a file in *Yaker* can be “accessed somehow,” that is via a set of computer instructions, then a “link” must necessarily exist. (Office Action, Page 2). Applicants assert that the Examiner is improperly giving the word “link” a broad interpretation inconsistent with that set forth in the specification and the understanding of those of skill in the art. Applicants submit that the term “set of computer instructions” is fairly broad, and had Applicants intended to claim such a broad scope, they would have simply used the term “set of computer instructions” or a similar broadly-based term, rather than specifically limit their claim to a “link.” Under the Examiner’s interpretation however, the term “link” has absolutely no bound, and can mean almost anything imaginable. In addition, the Examiner has provided no evidence of record indicating that one of ordinary skill in the art would similarly construe “link” to have such an open-ended meaning.

The Examiner's open-ended construction of "link" is also entirely inconsistent with the claim language itself. From the clear language of the Claim 10, and as supported by Applicants' specification, it is clear that a link has the following properties:

- A link is stored in a directory;
- A link is directed to a program or file (thus, a link is not the actual program or file, but is a shortcut or pointer thereto); and
- A link has a name.

Accordingly, it should be unambiguously clear to any person, and particular for a skilled person, what is meant by a link.

The Examiner's strained construction also shows its faults when the present application is compared to *Yaker*. As claimed by the present application, the pool of words to be recognized can be easily extended or changed by simply adding or changing a properly named link to the corresponding program or file to be invoked. On the other hand, *Yaker*'s use of program or file names, instead of a link does not allow such freedom, as program names and directory tree structures holding files or executable programs cannot often be changes without causing detrimental side effects (e.g., the programs or files may not be found by other applications relying on an old file name). Such difference is clear from the specification, and would further support the notion that one of skill in the art would not take "link" to have the completely unbounded construction given to it by the Examiner.

Also, even assuming that the Examiner is correct in the assertion that "link" may include items other than "windows shortcuts and other user interface features," this assertion would then be irrelevant to Examiner's sustained rejection of Claim 11, which specifically recites "the links define shortcuts." Thus, even assuming for the sake of argument the Examiner's broad interpretation of "link" is correct, such fact alone does not render Claim 11 obvious.

For at least these reasons, *Yaker* does not teach, disclose or suggest each and every element of Claim 10, and therefore, cannot render obvious Claim 10. For analogous reasons, *Yaker* does not teach, disclose or suggest each and every element of Claim 15, and therefore, cannot render obvious Claim 15. Given that Claims 11-14 depend from Claim 10 and Claims

16-21 depend from Claim 15, Applicants submit that Claims 11-14 and 16-21 are also allowable.

Association of Customer Number and Change of Correspondence Address

Applicants respectfully request that all papers pertaining to the above-captioned patent application be associated with Customer No. **31625**, and direct all correspondence pertaining to this patent application to practitioners at Customer Number **31625**. All telephone calls should be directed to Brian K. Prewitt at 512.322.2684. A Revocation and Power of Attorney will be submitted shortly.

ATTORNEY DOCKET
071308.1104
(2001P19670WOUS)

PATENT APPLICATION
10/501,857

9

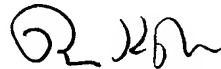
CONCLUSION

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2684.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicants



Brian K. Prewitt
Reg. No. 60,135

Date: 2/17/09

SEND CORRESPONDENCE TO:

Baker Botts L.L.P.

CUSTOMER ACCOUNT NO. **31625**

512.322.2684

512.322.8383 (fax)